

HOUSE BILL NO. 511

INTRODUCED BY S. MENDENHALL

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN EXEMPTION TO THE REQUIREMENT TO OBTAIN A PRODUCE DEALER LICENSE AND A NURSERY LICENSE IF THE PRODUCE OR NURSERY STOCK IS SOLD AT A FARMER'S MARKET; AMENDING SECTIONS 80-3-321 AND 80-7-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 80-3-321, MCA, is amended to read:

"80-3-321. Produce dealer license -- exception -- renewal. (1) A produce dealer license is required for any person who:

(a) wholesales produce in this state;

(b) transports produce from out of state into this state for retail sale; or

(c) retails produce grown by the produce dealer in this state when gross retail sales exceed \$15,000 annually.

(2) A produce dealer license is not required for a person who complies with the requirements of this part and who:

(a) retails produce grown by that person in this state if annual gross produce sales do not exceed \$15,000; ~~however~~ However, the person shall, upon request by the department, furnish a sworn statement providing that the produce was grown by that person, stating the location where the produce was grown, and stating the amount of gross sales; ~~or~~

(b) is a nonprofit organization that is recognized by the director and that retails only produce purchased from licensed produce dealers or from Montana produce dealers who are in compliance with this part; or

(c) retails produce grown by the produce dealer in this state at a farmer's market, as defined in 50-50-102, if the farmer's market has obtained a license pursuant to subsection (1) of this section and has complied with the provisions of this section.

(3) An applicant for a produce dealer license shall provide any information that the department finds necessary to carry out the provisions of this part. Produce dealer licenses expire on December 31 of the year of

1 issuance. A produce dealer shall pay a nonrefundable license fee of \$50. A separate license is required for each
2 place of business, including vehicles. The license fee must be credited toward the produce assessment fee
3 prescribed in 80-3-314.

4 (4) A produce dealer license, if required, must be carried at any time produce is sold and the license is
5 subject to inspection by any person.

6 (5) A license issued under this section may not be sold or transferred from one vehicle or location to
7 another without the written consent of the department."
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9 **Section 2.** Section 80-7-106, MCA, is amended to read:

10 **"80-7-106. License required -- exemption -- application and payment of license fee.** (1) ~~A~~ Except
11 as provided in subsection (6), a firm, nursery, or plant dealer engaging in the business of selling or distributing
12 nursery stock in this state shall obtain a license for each location from the department.

13 (2) The license must be in the name of the firm, nursery, or plant dealer seeking the license and expires
14 on the anniversary date established by rule by the board of review established in 30-16-302. The applicant shall
15 provide information that the department finds necessary to carry out the provisions and purposes of this chapter
16 and in the form determined by rule by the board of review established in 30-16-302.

17 (3) The department shall establish license fees by rule. License fees may be no less than \$95 or more
18 than \$125. If the department determines that the revenue from the license fee is inadequate to accomplish the
19 purposes of this chapter, the department may by rule increase the fee within the statutory limit.

20 (4) A new applicant or a firm, nursery, or plant dealer failing to renew a license on or before the annual
21 anniversary date provided for in subsection (2) shall pay an additional nonrefundable late fee of \$25 for each
22 license.

23 (5) An out-of-state firm that imports nursery stock into Montana for resale by a licensed Montana nursery
24 or plant dealer is not required to obtain a license if the firm is licensed in the state of origin of the nursery stock
25 and if that state extends a similar exemption to Montana firms.

26 (6) Sales of nursery stock by a firm, nursery, or plant dealer at a farmer's market, as defined in
27 50-50-102, are exempt from the provisions of this section if the farmer's market has obtained a license pursuant
28 to subsection (1) of this section and has complied with the provisions of this section.

29 ~~(6)(7)~~ The fees required by the provisions of this section may be paid by credit card and may be
30 discounted for payment processing charges paid by the department to a third party."

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2 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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4 NEW SECTION. **Section 4. Applicability.** [This act] applies to licenses issued on or after [the effective

5 date of this act].

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